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HUMAN RIGHTS COMMITTEE

Fortieth session

SUMMARY RECORD OF THE 1031st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 November 1990, at 3 p.m.

Chairman: Mr. LALLAH

later: Mr. DIMITRIJEVIC
Mr. LALLAH

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of the Ukrainian Soviet Socialist Republic (CCPR/C/58/Add.8 and M/CCPR/C/90/42) (continued)

1. The CHAIRMAN invited the delegation of the Ukrainian Soviet Socialist Republic to answer the questions that had been put to it by members of the Committee under section VII (Freedom of movement and expulsion of aliens - articles 12 and 13) of the list of issues.

2. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic) said, in reply to a question by Mr. Myullerson on freedom of movement and the freedom to leave the country, that the real situation had anticipated legislation. The new draft law, which was, in principle, to be adopted at the current session of the Supreme Soviet of the USSR, envisaged an extension of the possibilities of leaving the country and returning to it and, in general, an amendment of the provisions to bring them into line with the Covenant. At present, to the extent possible, a citizen who applied to leave the country was allowed to do so, provided that he had received an invitation to go to the country of his choice. He stressed, however, that the exercise of the freedoms mentioned by Mr. Myullerson was impeded by two difficulties: (1) the problem of currency; citizens who left Soviet territory could obtain only a very small amount of currency, for economic reasons which should gradually disappear. In that regard, Soviet legislation was not yet fully in conformity with the Covenant; (2) the obligation to have a residence permit (propiska); that question was more complicated, as it was linked to the restructuring of the system of housing in the USSR as a whole. When the State no longer had a responsibility to provide housing for all, many difficulties would be smoothed away and the obligatory residence permit could be abolished.

3. In the preceding October, the authorities had envisaged abrogating a number of laws relating to the freedom to come and go within the country. The legislation in force provided that a citizen might change his place of residence if he found accommodation. However, all kinds of regulations had hitherto prevented people from moving to major cities such as Moscow, Leningrad or Kiev unless they were in possession of a special permit. With the restructuring of the country, that situation should change considerably.

4. Replying to the question by Mr. Wennergren about AIDS, he said that everyone was aware that the problem of AIDS was particularly acute today; the Soviet authorities therefore endeavoured to take measures to protect the health of citizens. The law stated that stateless persons and aliens permanently resident in the USSR might, at the request of a health service, be required to undergo a medical examination. The Ministry of Health had been instructed to prepare and disseminate widely special instructions in that regard. It should be noted that information obtained as a result of the examination was protected by professional secrecy. If a Soviet citizen or a stateless person permanently resident in the USSR was found to be HIV-positive or suffering from AIDS, he was informed in writing, to enable him to take the necessary precautions to avoid infecting his entourage; if, however, he transmitted the disease to another person, he was then liable to criminal prosecution. In the case of aliens residing permanently or temporarily in the

USSR, if they refused to undergo the examination requested of them, they were invited to leave the country. Finally, it should be emphasized that the authorities tried to avoid recourse to repressive methods in combating AIDS.

5. In reply to a question by Mrs. Higgins on the concept of State security, he acknowledged that the relevant provisions were not in conformity with those of the Covenant. In actual practice, at the present time in the USSR the view was held that a perpetrator of an offence was not bound to be prosecuted, provided he acknowledged his responsibility. In the event that the provisions of the Criminal Code were not applied to him, the offence was, however, entered on his police record. It was planned to abolish that provision since, according to the Constitution, only a court could establish the guilt of an individual charged with an offence. Further, it was unfair that a person should be accused of having committed an offence without being able to have access to his file.

6. In reply to another question raised by Mrs. Higgins about the applicability of the new law regulating entry into and departure from the USSR of persons who had already been denied the right to enter or to leave, he said that the new provisions would not have a retroactive effect. However, the files of persons who had been refused on one or more occasions would as of now be treated on an equal basis with other files.

7. With regard to paragraph 66 of the report, he was in agreement with Mr. Ando that the term infraction grave, if not clarified, might give rise to arbitrary interpretations. There again, the legislative reform would certainly make it possible to correct that situation.

8. Mr. FODOR said that he had two questions on article 17 of the Covenant. Paragraph 80 of the report stated that article 130 of the Criminal Code of the Ukrainian SSR provided that any unlawful search, unlawful eviction or other action in breach of the inviolability of a citizen's home was punishable by a range of penalties including a public reprimand. He would like to know the exact nature and purpose of that kind of punishment. If the intention was to humiliate the offender publicly, he wondered whether such a provision was in conformity with article 7 of the Covenant.

9. His second question related to the confidentiality of communications. He would like to know which authorities could request the interception of private communications and the circumstances in which telephone tapping was permitted in the Ukrainian SSR.

10. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic), replying to the first question raised by Mr. Fodor, drew the attention of members of the Committee to the fact that article 130 of the Criminal Code provided three other possible penalties: a custodial penalty, a penalty of corrective labour and a fine, depending on the seriousness of the offence. No public reprimand had been prescribed in the last 10 years by Ukrainian courts. It was also planned to abolish officially that kind of punishment by excluding it from the new Criminal Code. The provision dated back to the early years of Soviet power and the intention of its authors had been to provide judges with a broad range of measures designed to allow an offender to make amends.

11. In reply to the second question by Mr. Fodor, he said that the secrecy of correspondence and the inviolability of the home were guaranteed to citizens by the Constitution. According to the law, only the Procurator could issue a

decree in cases where the person concerned had been found guilty under the provisions of the Criminal Code. That kind of measure was, however, applied only with the utmost caution.

12. The CHAIRMAN invited the delegation of the Ukrainian Soviet Socialist Republic to reply to the following questions raised under section VIII:

"VIII. Freedom of religion and expression (articles 18 and 19):

(a) Please clarify the relationship between the new bill on freedom of conscience, which has just been enacted by the Supreme Soviet of the USSR and the Act on Religious Associations in the Ukrainian SSR of 1 November 1976.

(b) With reference to paragraph 89 of the report, please clarify whether all the rights of the Uniate Church have now been fully re-established, including its religious ties with the Holy See.

(c) With reference to paragraph 91 of the report, please provide additional information on recently drafted legislation relating to the press and to the lifting of censorship restrictions.

(d) Have any complaints been lodged under article 134 (1) of the Criminal Code of the Ukrainian SSR against officials for infringing the right of citizens to criticize public organs or to submit proposals, petitions or complaints?"

13. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic) said, with regard to the inquiry contained in (a) that while the new legislation on freedom of conscience which had been promulgated very recently, after extensive discussion, reflected a considerable evolution in ideas in that field, it was not, however, consistent with the legislative provisions currently in force in the Ukrainian SSR. The new USSR law was considerably more democratic. It had offered the Church new opportunities of carrying out its activities and had abolished a series of restrictions that had been imposed on it. The USSR law would prevail over the current legislation of the Ukrainian SSR, although that primacy was today being challenged in the Republic. The new law specified that virtually all the denominations in existence in the Ukraine could be registered, that the activities of the Uniate Church were lawful and that its rights were fully recognized.

14. In reply to the inquiry formulated in (b), he said that the rights of the Uniate Church had been fully re-established. Conflicts had also arisen between the Orthodox Church, which had proclaimed its independence in the Ukraine, and the Roman Catholic Church over the utilization of places of worship. After June 1946, a whole series of religious establishments which had belonged to the Roman Catholic Church had been transferred to the Orthodox Church. Since the Roman Catholic Church had resumed official activities, it was claiming the premises that had been confiscated and, depending on the places of worship, that was creating serious tensions in the Republic. The Supreme Soviet had even had to speak out since according to the law, all places of worship were the property of the State. Today, however, if a religious association possessed property, it was permitted to retain it.

15. In reply to the question contained in (c), he said that a very large number of press organs functioned nowadays in the USSR without any intervention by the censorship. At the present time in the USSR one published and sold what one wanted to publish and sell. In the law on the press an attempt had been made to introduce some order into that abundance. The authors of the law had studied three issues: (1) the procedures for organizing the press and its publication; (2) the provisions to be adopted in order to determine the responsibility of publishers for the quality of publications; (3) the definition of the responsibilities of the media and journalists in respect of disinformation and in the event of wrong done to an individual by a publication.

16. It had been decided that any social, governmental, scientific or other organization, or even an individual, should have the right to engage in activities in the media. To do so, it was sufficient to register with the competent authorities (in Moscow, the Press Committee; in the Ukrainian SSR, the Executive decided on registration procedures). Permission to publish was granted without restriction and no censorship was allowed in that regard. A regulation had been drawn up stating that the author of a publication was responsible for the quality of the information disseminated.

17. In connection with (d), he informed the Committee that complaints had indeed been lodged under article 134 (1) of the Criminal Code of the Ukrainian SSR; 16 complaints had been filed for the last six months alone, and the officials implicated had had to explain in court the decisions they had taken against the complainants.

18. Mr. DIMITRIJEVIC drew attention in the Constitutions of the USSR and the Ukrainian SSR to the concept sometimes called "socialist public order", under which certain rights were granted. Quoting the examples of articles 45, 48 and 49 of the Constitution of the Ukrainian SSR, he noted that a number of freedoms were guaranteed in conformity with the objectives of the building of communism or of the consolidation and development of the socialist régime. He also noted that freedom of conscience established in article 15 was, fortunately, not tied to that kind of condition. He would like to know whether those objectives were included in the text of the new Constitution and, if they were, how they were interpreted. Were they regarded as the reason for the granting of the rights in question; in other words, did they express the conviction that once one enjoyed freedom of speech, association and so on communism could be built or was it a limitation, in the sense that citizens could only exercise the freedoms indicated in full respect for those principles? He would like the delegation to provide explanations in that regard, particularly since although constitutional freedoms truly existed today and the principles to which they were tied were not taken into account in the current situation, those concepts did appear in the texts and could therefore be invoked in a different political context.

19. He had the impression that the main material difficulties experienced by what might be called the popular press in the USSR had been resolved, but that the problem of paper and printing works remained. Did anyone wishing to publish a work have the possibility of having paper to print it and free access to a printing house? Had there been cases of refusal or obstacles placed in the way of individuals in that respect?

20. He would also like to have more detailed information on the electronic media and conditions of access to that equipment which offered much greater scope than the written press, particularly in rural areas. Was it possible to set up an independent radio or television network? Were restrictions and obligations placed on radio and television networks to guarantee respect for pluralism in programmes, particularly during elections?

21. Mrs. HIGGINS said that she would like to know why the Uniate Church was not permitted to have the status of a juridical person and was therefore prevented from carrying out its humanitarian mission. She also associated herself with the questions raised by Mr. Dimitrijevic on the independence and pluralist character of radio and television. With regard to freedom of the press, she assumed that the editor-in-chief must be answerable for the quality of his publication. She therefore wondered whether he was answerable to the readers or to some other authority; the latter would be contrary to the principles of a completely independent press.

22. Mr. Dimitrijevic took the Chair.

23. Mr. WENNERGREN noted that, in accordance with article 19 of the Covenant, freedom of expression might be subject to restrictions only in the interest of public order, public health or morals. The authorities usually restricted freedom of expression by prohibiting in law the use of certain methods to disseminate certain kinds of information. To what extent had that method been used in the Ukrainian SSR? For example, were there provisions designed to punish the dissemination of false information or allegations that ran counter to the policy of the Government or information that damaged the honour or reputation of leaders of the State, such as the President or the members of the Supreme Soviet?

24. Like freedom of expression, the right of peaceful assembly could also be restricted under article 21 of the Covenant. For instance, in most countries, demonstrations required prior authorization and that was doubtless the case in the Ukrainian SSR. He would like to know on what grounds a demonstration or a meeting might be prohibited, what conditions had to be met for a demonstration to be permitted and what measures were taken if a peaceful assembly was held without permission. He believed that on a number of occasions, and certainly on 1 October 1989, the police had intervened brutally to disperse students who had been demonstrating peacefully. He would like to know whether investigations had been conducted into the conduct of the police force and whether the persons responsible had been prosecuted for the excessive use of force.

25. Mr. POCAR associated himself with the questions raised by Mr. Dimitrijevic, Mrs. Higgins and Mr. Wennergren. He would also like to have more information on the right of peaceful assembly and to know, in particular, what powers were conferred upon the authorities under the decree of 28 July 1988, mentioned in paragraph 105 of the report, and which was a federal decree and under the decree of 3 August 1988, mentioned in paragraph 95, which applied at the level of the Republic. He asked exactly what penalties were prescribed in the case of contraventions of the established procedure for the organization and conduct of assemblies and whether penalties were applied solely in the case of infringements committed by the organizers or the participants, or equally in the event of infringements committed by the authorities who had the competence to authorize

the meeting and who were required to ensure that it was conducted properly. Moreover, did those decrees apply solely to public meetings or equally to private meetings held in places that were closed and inaccessible to the public?

26. With reference to the contents of paragraph 94 of the report, he asked whether the executive committee of a Soviet of Peoples' Deputies was a federal authority or an organ of the Republic of the Ukraine. It seemed to have a very extensive power since, in principle, it could even prohibit in the Ukrainian SSR a meeting whose purpose was contrary to the constitution of another Federative Republic. He asked for explanations in that regard.

27. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic), answering the first question put by Mr. Dimitrijevic, said that the Constitution and legislation of the Ukrainian SSR had for long been subject to the ideology which had been considered to be essential; that had given rise to arbitrary interpretations. Recent amendments to the Constitution had focused on all areas other than that of human rights, but it was certain that other amendments would be made in the near future, inter alia to articles 45, 48 and 49, to ensure that the State discharged its obligations and guaranteed full respect for human rights, in accordance with the true interests of the people.

28. With regard to the mass information media, the law interpreted them as comprising the press, radio and television; consequently, that embraced daily newspapers, weekly publications, radio broadcasts, documentary films and any other information medium, the list appearing in the law not being exhaustive. Moreover, publications printing less than 1,000 copies did not require special permission. The law also defined the abuse of freedom of expression: the law thus prohibited any use of the medias to disclose State or military secrets, to incite to war, hatred or racial or religious intolerance, to disseminate pornography, to interfere in the private life of citizens or to damage the dignity and honour of individuals. Any citizen who considered that he had been offended or injured could bring a complaint before the courts and if they recognized that his allegations were valid, he could receive damages. For instance, anyone who considered that a newspaper had published offensive remarks about him was entitled to publish his point of view in the same amount of space as that used to print those remarks.

29. With regard to the responsibility of journalists, the law stated very clearly that abuse of the freedom of expression, the improper use of witnesses, libel and attacks on the honour or dignity of individuals involved criminal prosecution. Responsibility for breaking the law extended to juridical persons and moral persons alike and to the editor in chief of a paper and the authors of the articles printed, since the State and State bodies could not take any steps to restrict the freedom of journalists. Authors who published statements in the press that were not borne out by the facts were not, however, held responsible if, for instance, those statements had already appeared in official communications, if the information published had come from State agencies, if they consisted of statements made by deputies in the Supreme Soviet or if they were official statements by representatives of the State or State bodies. Further, any citizen who considered that he had been subjected to interference in his privacy by a journalist could notify the courts and institute criminal proceedings against the person responsible.

30. The law establishing criminal liability for an attack on the honour and dignity of State officials had been repealed by the Supreme Soviet and the new decree stated that only an attack on the honour and dignity of the President of the Republic could lead to prosecution.

31. As far as equal access to the mass communications media and in particular television was concerned, there was as yet no real private television network in the Ukrainian SSR, although a number of community television networks had been set up recently. In principle, everyone had the right to express himself through the media, although it was obviously impossible to allow each of the 52 million inhabitants of the Republic to state his opinion in that way. However, during electoral campaigns, all candidates had an opportunity of explaining their programme and anyone who had come under the scrutiny of the media could in his turn exercise his right of reply.

32. In answer to the question concerning the Uniate Church, he said that all the Churches had been in the same situation until the recent law had been adopted. Henceforth, all denominations could avail themselves on an equal footing of the status of a moral person.

33. A draft law designed to restrict the freedom of expression in the interests of public order, public health and morals was under consideration. It would also deal with propaganda for war.

34. Concerning the requirements for authorizing peaceful demonstrations and meetings, it should be stressed that, in the Ukrainian SSR the right of peaceful assembly was a constitutional right. Permission was not needed for meetings in camera, although the fact that it was necessary to apply for permission in other cases could give rise to criticism. In each region there was a representative of the authorities and an executive committee which took the decision to allow meetings and demonstrations. That power stemmed, therefore, from local or municipal bodies, and not from the Supreme Soviet of the USSR. The procedure followed was to address the application to the executive committee not less than 10 days before the date scheduled for the meeting. The organizers were required to specify in their application the purpose of the meeting. The committee could prohibit meetings only if their purpose was contrary to the Constitution and if there was a danger of disturbances of public order, for instance, if a demonstration was scheduled to be held at a busy period. Other than those two cases, there was no reason to prohibit a meeting although, in practice, it had happened. When it refused to give its authorization, the executive committee could either propose to defer the event or to prohibit it, subject to notification three days in advance. That decision could be appealed before a superior body. Moreover, penalties could be awarded when a meeting was held without permission and was therefore illegal. In practice, in order to avoid any agitation or breach of public order, the police was present, as it had been during the demonstration by the students on the Square of the October Revolution but, although on that occasion the police had prevented the students from demonstrating, no penalty had been imposed.

35. It was true that the police was currently being criticized and the Office of the Procurator had recently conducted an investigation into the conduct of law enforcement officials in certain circumstances, inter alia, on the occasion of action to prevent demonstrators from entering police premises. The investigation had concluded that the law enforcement officials had not

been at fault, but the deputies had decided to set up its own commission of inquiry. The investigation conducted by that commission had not led the Supreme Soviet to form a different opinion on what had occurred and it had been confirmed that the behaviour of the police on that occasion had not been reprehensible. He considered, however, that the activities of the police should be regulated more strictly.

36. The CHAIRMAN invited the delegation of the Ukrainian Soviet Socialist Republic to answer the following questions in section IX of the list of issues:

"IX. Freedom of association (art. 22)

(a) What progress has been achieved since the submission of the report in establishing the basis for and regulation of public associations or organizations, including political parties other than the CPSU? (See paragraph 110 of the report.)

(b) Has any further progress been achieved in drafting legislation that would provide a framework for the legalization of informal organizations? (See paragraph 111 of the report)".

37. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic), said that in addition to the Communist Party, the Republican Party, the Social Democratic Party, the Green Party and two Christian parties currently sat in the Parliament. Notable progress had therefore been made in that regard. The formation of political parties did not encounter any obstacles. At the level of the Union, a law on social organizations had just been adopted, and would enter into force on 1 January 1991. In its introduction, the law stipulated that social organizations already in existence had the right to apply for registration until 31 January 1991. It also established the procedures for setting up new organizations. There were two kinds of social organization: profit-making co-operatives and non-profit making organizations, which included the political parties. Those organizations could be set up at the level of the Union, a Republic or among Republics. Depending on the case, they would be registered by the Ministry of Justice of the Union or by the Council of Ministers of the Republic concerned which could, by means of legislation, delegate that function to the Ministry of Justice, as in the Ukraine. To the extent that they did not contravene the Constitution, the activities of organizations could not give rise to any interference on the part of the public authorities, save in the cases authorized by law, as for example the social protection functions exercised by the trade unions could be subject to controls.

38. Turning to political parties, he said that electoral campaigns were financed directly by the State. Political parties could be set up only by Ukrainian citizens or nationals of the Union. However, it was not necessary to be a citizen in order to become a member of a social organization other than a political party. If the application for registration by a party or an organization was rejected, it was possible to bring the matter before the courts which might possibly reverse the decision. Further, if it was recognized that the refusal had not been justified, the injured party would be compensated. Organizations might not be dissolved by the State unless their activities were harmful and it was then a judge who took the decision.

39. All political parties were equal before the law, as were trade unions. Membership of those organizations was individual rather than collective. The control exercised over them was financial by nature and was designed to ascertain the source and utilization of their funds. The Office of the Procurator could also exercise supervision in certain cases.

40. Mr. ANDO said that he had the impression that in the March 1990 elections, one opposition party had not been allowed to register in time to put forward its candidate. He would like to know why.

41. Mrs. HIGGINS noted that the Constitution of the Union which had contained a provision stipulating that the purpose of freedom of expression was to promote the socialist system had been amended while the corresponding article in the Ukrainian Constitution (art. 48) had not yet been amended. She asked if it would be amended and would also like to know whether it was correct that the provisions relating to the right of freedom of association had been amended in the Constitution of the Union and, if that were the case, whether it was planned to amend the Ukrainian Constitution as well, so that it would no longer state that the aim of associations was the construction of socialism.

42. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic) answered that, unfortunately, the legislation that continued to regulate the procedures for registering social organizations dated back to the 1930s. It had obviously become obsolete and, in effect, many of its provisions were no longer used. For whatever reason, the registration of organizations took a certain amount of time. When the opposition party mentioned by Mr. Ando had made such an application, another organization, the Chevchenko Ukrainian Language Society had done the same. The Council of Ministers had approved both applications and the reason why the two organizations had not been registered was probably that the legislation in force made provision for the registration of new organizations, but not for organizations already in existence, thereby possibly creating confusion. The new legislation would correct those problems.

43. He wished to inform Mrs. Higgins that the Ukrainian Constitution had also been amended, but since the amendments had been adopted on the day when the delegation of the Ukrainian SSR had left for Geneva, it did not know what the final text was.

44. The CHAIRMAN invited the delegation of the Ukrainian SSR to answer the following question contained in section X of the list of issues:

> "X. Rights of persons belonging to minorities (art. 27)
>
> Are any institutional measures envisaged by the Government of the Ukrainian SSR to deal on a systematic and long-term basis with the problems of minorities and the promotion of progress and reconciliation among the various national groups?"

45. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic) said that that problem was not as serious in the Ukraine as in other Republics, but that it nevertheless arose with the resettlement of the Crimean Tatars in their homeland, the guarantee of the cultural rights of groups of Hungarian or Polish origin living in the west of the Ukraine and the problems of the Russian-speaking population which accounted for 20 per cent of the total

population. It was obvious that all minorities had rights that must be protected. The Ukraine had legislation concerning the languages used on the territory of the Republic, under which all citizens were entitled to use their mother-tongue, even in State organs, and if the representatives of the authorities knew those languages, they were required to answer in them. Facilities were also planned to enable people not conversant with Ukrainian to learn it without losing their employment. School textbooks were published in Polish, Hungarian and Tatar. The Government of the Ukrainian SSR, in co-operation with the Union, had taken steps to make their resettlement easier by providing them with building materials and guaranteeing them services. Legislation on the rights of minorities was currently under consideration in the Supreme Soviet; if it was adopted, national councils would be set up to resolve in particular the problems of languages.

46. Mr. Lallah resumed the Chair.

47. The CHAIRMAN invited the members of the Committee to make general comments on the third periodic report of the Ukrainian SSR and on the answers given by the delegation of the State party to the questions that had been raised.

48. Mr. WENNERGREN said that the dialogue which was drawing to a close had been most rewarding. The Ukrainian SSR was going through a period of transition marked by a number of uncertainties in respect of the present and future situation, although it did seem that the policies adopted were the right ones and that the country was on the right path as far as the protection of human rights was concerned. Nevertheless, he had a somewhat disquieting impression that the local authority were, to a considerable extent, acting on their own responsibility without taking into consideration the major changes that were occurring at the national level and that the forward-looking changes decided by the Central Government were not always passed on at the local level. Obviously, it was not an easy matter, in a period of transition, to monitor the follow-up of all decisions taken at the highest level, but it was encouraging to see that the Government of the Ukrainian SSR seemed resolved to take appropriate action to improve the human rights situation.

49. Mr. EL SHAFEI noted that the report, like the additional information presented with a good deal of competence by the delegation of the Ukrainian SSR, had helped to bring about a better understanding of the complex problems confronting that country at a time when it was moving towards a new kind of relationship with the Government of the Union, as well as towards a constitution and legislation in keeping with the new economic and social order it wished to introduce in respect for human rights.

50. The dialogue with the delegation of the Ukrainian SSR had clearly underscored the intention of the Government and the recently elected Supreme Soviet to guarantee to all persons under their jurisdiction the rights recognized in the Covenant. Much progress had already been made, but the delegation of the Ukrainian SSR would undoubtedly recognize, with the Committee, that reforms were still needed, particularly in respect of the treatment of prisoners and other detainees, prisoners of conscience and conscientious objectors, the freedom to move freely within the country and to leave it, forced labour and corrective labour. The adoption of new laws and the measures that would be taken would, one must hope, resolve the remaining problems.

51. Mr. FODOR commented that the Ukrainian Soviet Socialist Republic had made considerable progress in recent years. Thanks to glasnost and perestroika, there had been major changes which had had a favourable impact on the protection of the rights recognized by the Covenant. The report and the oral introduction to it had clearly demonstrated that the legislation pertaining to civil and political rights had been amended in a positive manner and that practice had been improved. That process was not yet completed and the amendments recently made to the Constitution, which ended the monopoly of the Communist Party made it possible to envisage more extensive reforms. The ongoing changes led him to view the current situation with a less critical eye. Although there were still areas in which legislation and practice were not in full conformity with the provision of the Covenant, he was confident that the Ukrainian authorities were aware of the shortcomings that remained and were resolved to take the necessary steps to deal with them.

52. Mrs. HIGGINS said that she was extremely satisfied with the open and constructive dialogue which the members of the Committee had had with the delegation of the Ukrainian SSR. She shared the view that the period of transition had produced positive results in a short period of time, but she continued to be concerned by certain problems.

53. First of all, the statistics relating to the death penalty had still not been published, although she had urged their publication five years earlier. Mr. Bourtchak had also recognized that Ukrainian legislation did not have provisions equivalent to article 9 (3) of the Covenant. She hoped that the omission could soon be rectified. In reply to the concern expressed about psychiatry, psychiatric treatment and abuses committed in the past, the representative of the State party had described the new legislation which was to be drawn up, but his answers had not been precise enough to dispel her misgivings in that regard; she was thinking in particular of the question raised about article 123 (2) of the Criminal Code which was quoted in paragraph 32 of the report. Also, the practices mentioned in connection with administrative detention and the abuses that could well occur during the time when a detainee was held incommunicado were another cause for concern. One must hope that the new legislation currently under consideration would make it possible to resolve some of those problems.

54. As far as the draft law concerning entry and exit from the country was concerned, all the members of the Committee were aware of the situation in respect of the residence permit (propiska). However, as far as the issuance of passports was concerned, the problem was not whether the new law would be applicable to anyone who invoked it but the conditions in which the maximum period of five years during which a passport could be withheld from an individual who had had access to State secrets would be applied. The fate of many "refuseniks" might be changed as a result.

55. She continued to be concerned about the definition of the concept of State security, which she found very broad and which, in any event, exceeded the limits prescribed in article 12 (3) of the Covenant. It was vital to give State security and State secrecy a very strict sense, also from the viewpoint of article 14 and article 22 of the Covenant.

56. Mr. POCAR associated himself with the other members of the Committee who had underscored the progress achieved in the Ukrainian SSR as well as the problems that remained, particularly in connection with administrative internment and the right to freedom of movement.

57. Although the report was drafted in accordance with the Committee's guidelines, it did not refer to practice and the specific implementation of legislative provisions. Needless to say, in a period of transition, there were many changes in legislation and it was legitimate to explain them in the first instance. However, in the future, it would be desirable to concentrate more on the current situation and to give specific examples.

58. It seemed that in Ukrainian legislation certain restrictions on rights, authorized in the Covenant in exceptional cases, were still too extensive. However, reforms were following one another at a rapid pace and there was unquestionable progress, in an objectively difficult context. It should be stressed that the co-operation of the Ukrainian SSR with the Committee had been outstanding in recent years; the signature and ratification of the Optional Protocol to the Covenant would further strengthen that co-operation.

59. Mr. AGUILAR URBINA expressed appreciation to the delegation of the Ukrainian SSR of its competence and openness which had made for an extremely fruitful dialogue with the Committee. Its conduct reflected a desire to make progress in achieving respect for human rights.

60. However, the legislation of the Ukrainian SSR continued to have too many shortcomings; those shortcomings were acknowledged by the delegation itself, which was all to the good. More specifically, the slowness in publishing the statistics relating to capital punishment was disturbing because of all that it might signify and administrative internment was used too frequently. However, it was undeniable that the Ukrainian SSR was now moving in the right direction and he hoped that it would succeed in the task it had set itself.

61. Mr. DIMITRIJEVIC drew attention to the great competence of the delegation of the Ukrainian SSR and its remarkable readiness to provide the requisite explanations to ensure that the Committee was better informed of the situation. The delegation had given an assurance that the situation would further improve. To achieve that end, first and foremost, it would be advisable to spell out more precisely all human rights in the Constitution and in legislation, to bring about change in the habits of the law enforcement authorities - no easy matter anywhere - and to create conditions, including the economic conditions, conducive to the genuine exercise of human rights.

62. One must hope that the reform of the Constitution would go through rapidly and, above all, that the changes would not be merely superficial. It was not enough to repeal the provisions which the Committee had found shocking; a recasting was needed that would guarantee fundamental human rights and their respect in law as well as in practice.

63. It was also vital to shed the tendency towards secrecy, which persisted in the Ukrainian SSR as it did in any country where the bureaucracy sought to hold on to power by continuing to be the only source of information.

64. Generally speaking, he recommended a change in the status of the Procurator's Office, whose present role was that of an administrative body infiltrating the judicial machinery. A very clear-cut separation of the judicial power from the other powers was vital. Problems also remained in respect of freedom of movement and freedom of information, which included the right to obtain information guaranteed in a large number of countries by granting citizens access to the files. Finally, the Ukrainian SSR should draw

on the lessons of the past in respect of abuses of psychiatric internment, stated to be henceforth impossible, by a variety of new legislation. Every effort should be made to ensure that such abuses would never recur.

65. He thanked the delegation of the Ukrainian SSR and hoped that the efforts being made to bring about a victory for human rights would continue.

66. Mr. ANDO noted that the concrete information lacking in the report of the Ukrainian SSR had been provided in abundance by the delegation whose openness and integrity had helped to make the dialogue with the Committee very useful.

67. However, there were still shortcomings and causes for concern. For instance, he would like to know why the state of emergency had not been mentioned. While it was always better to avoid such situations, if and when they occurred, they must be regulated strictly, in conformity with article 4 of the Covenant. Pre-trial detention was excessively long and the judicial role of the Procurator's Office should be reconsidered. The total separation of the three powers should be assured. The definition of the concept of State security was too broad to be compatible with the Covenant and freedom of expression should be strengthened in practice. Finally, his question about the likelihood that a conscientious objector would be recalled for military service after performing his civil service had gone unanswered.

68. Despite those reservations, there was a very clear trend towards the institution of a freer and more democratic society. Since it was a multi-ethnic Republic, the Ukraine would inevitably encounter difficulties on the path it had chosen; it was also important to stress that undue haste in introducing reforms was not desirable, particularly in view of the important place occupied by the Ukraine on the geo-political chessboard. He ventured to hope that the ensuing difficulties could be overcome without friction and that the next periodic report would record further progress.

69. Mr. MYULLERSON emphasized the fact that the participation of a member who was a Soviet national in the consideration of the third periodic report of the Ukrainian SSR attested to the independence of the experts serving on the Committee. Like the other members, he welcomed with satisfaction the progress made in the promotion of human rights in the Ukrainian SSR; they should, however, be viewed in the context of the previous unsatisfactory situation. The achievements were great, but there had been a great deal to do and the progress that had been made should not lead one to forget the task ahead. Violations of human rights and infringements of specific provisions of the Covenant had not been entirely eliminated. For all that, the Committee's sole objective was to help countries to reform their legislative system. Consequently, it could only urge the Ukrainian SSR to ratify the Optional Protocol to the Covenant; such a step would be not only in the interest of the population but also in the interest of the authorities.

70. The delegation of the Ukrainian SSR should be thanked for its frankness for which he could vouch, being of necessity very well informed of the situation in that Republic.

71. The CHAIRMAN thanked the delegation of the Ukrainian SSR for providing, through its detailed replies, the concrete information lacking in the report. In the new legislation which the Ukrainian SSR had undertaken to draw up and to promulgate, it would be important to take account of all the rights

established in the Covenant and to ensure that only those restrictions and derogations expressly provided were authorized. Several members of the Committee had drawn attention to the harmful effects of a past tendency towards secrecy and an absence of information. One must hope that the reforms would successfully replace that trend by greater freedom. Most of the remaining subjects of concern in the Ukrainian SSR stemmed precisely from the trend in the past towards secrecy. The same applied to the application of the death penalty and the absence of statistics in that regard, the lack of provisions to give effect to article 9 (3) of the Covenant, resulting in protracted periods of detention, restrictions on the right to freedom of movement and the prohibition of conscientious objection.

72. The progress made in the protection of human rights in the Ukrainian SSR was unquestionable, but it should continue. The delegation of the Ukrainian SSR would doubtless transmit all the Committee's comments to its Government. The Committee hoped that the fourth periodic report, scheduled for August 1994, would describe practice and would contain statistics that would enable the Committee to form an even more accurate idea of the situation.

73. Mr. BOURTCHAK (Ukrainian Soviet Socialist Republic) said that his country had at all times endeavoured to discharge conscientiously the obligations incumbent upon it under international instruments. Difficulties subsisted in the transitional phase through which it was passing and the Committee's comments would certainly help it to overcome them. The remaining problems were not only legislative but were also bound up with behaviour, state of mind and mental attitudes, all of which were difficult to change overnight. The views expressed by the Committee would be made public.

74. The CHAIRMAN said that the Committee had concluded its consideration of the third report of the Ukrainian SSR.

75. The delegation of the Ukrainian Soviet Socialist Republic withdrew.

The meeting rose at 6 p.m.